IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

Crl.Rev.Pet.No. 3121 of 2007()

CMP.3979/2006 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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REVN. PETITIONER: PETITIONER/COMPLAINANT

C.K.MENON,
"SOUPARNIKA", VALANJAMBALAM, ERNAKULAM,
KOCHI-682 016.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS: ACCUSED & STATE

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SRI. BINOY THOMAS,
FINANCE MANAGER, M/S. JEEVAN TELECASTING CORPN.
LTD., 32/2401-B, 2ND FLOOR, RASHTRA DEEPIKA BLDG.,
PALARIVATTOM, KOCHI-682 025.

3. SRI. BABY MATHEW,
MANAGING DIRECTOR, M/S. JEEVAN TELECASTING
CORPORATION LTD., 32/2401-B, 2ND FLOOR,
RASHTRA DEEPIKA BLDG., PALARIVATTOM,
KOCHI-682 025.

BY PUBLIC PROSECUTOR SRI.K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. No. 3121 of 2007

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Dated: 6-09-2007

ORDER

The complainant in C.M.P. 3979 of 2006 on the file of the Chief Judicial Magistrate, Ernakulam for an offence punishable under Sec. 138 of the Negotiable Instruments Act, 1881 and Sec. 420 I.P.C. in respect of a cheque for a sum of Rs. 25,00,000/- challenges the order dated 25-4-2007 passed by the Chief Judicial Magistrate dismissing the complaint allegedly on account of the persistent default of the complainant.

2. Since the dismissal of the complaint was prior to the issuance of summons to the accused, notice to respondents 2 and 3 is dispensed with.

3. Having regard the high stakes in the complaint, the learned Chief Judicial Magistrate ought to have been indulgent enough to adjourn the complaint and penalise the complainant's default by an appropriate order of costs instead of dismissing the complaint. I am therefore, of the view that the complaint merits restoration. Accordingly, the order dated 27-4-2007 is set aside and the complaint registered as C.M.P.3979 of 2006 is restored to file. The complainant shall appear before the court below without any further notice on 26-9-2007. The Chief Judl. Magistrate shall proceed further with the complaint in accordance with law.

This Revision is disposed of as above.

V. RAMKUMAR, (JUDGE)

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